



16465
Policy Ltr 2-98
9 Feb 98

From: Commander, Seventh Coast Guard District
To: Distribution

Subj: USE OF STATE RESOURCES FOR TYPE 4 OIL POLLUTION INCIDENTS

1. The purpose of this letter is to provide consistent guidance to Coast Guard Federal On Scene Coordinators (FOSC) for the use of State resources in responses to Type 4 oil pollution incidents within the coastal zone. A Type 4 oil spill is defined in COMDTINST 16471.2 as a spill in which the response is normally completed within one operational period (24 hours). This policy addresses the relationship between the Coast Guard FOSC and State responders during Type 4 oil pollution response activities. The term "State" within this policy refers to a State, Commonwealth, or U.S. Territory.
2. The intent of this policy is to ensure that federal and state response organizations cooperate and coordinate their response efforts in a manner which would avoid conflict and unnecessary duplication. To implement this response philosophy:
 - a. The State should be given the first opportunity to respond to Type 4 spills into state waters. State response personnel acting as the State On-Scene Coordinator (SOSC) representative for pollution discharges or imminent threats of discharge are often the first responder on scene. In addition, State responders may be able to respond more expediently than Coast Guard resources because of their availability. To enhance Coast Guard personnel resources and more effectively utilize response assets, the State should be allowed to respond to Type 4 incidents without a federal on scene presence.
 - 1) If the State receives notification of pollution or identifies a pollution incident, within the coastal zone, the state shall notify the Coast Guard FOSC to coordinate the response. The FOSC will not generally respond if the incident is a Type 4 spill and the State intends to assume response. If the State is incapable of responding, chooses to not take action, Coast Guard resources are near the scene, or Coast Guard resources discover the discharge, the FOSC will initiate response and cleanup efforts as necessary.
 - 2) When the FOSC receives notification of pollution or identifies a pollution incident, the State will be notified to coordinate response actions as outlined in paragraph a.1 above.
 - 3) For pollution discharges greater than Type 4 or when a potentially significant environmental threat exists, both agencies will normally respond and coordinate

efforts, consistent with the National and Area Contingency Plans.

- b. When the State responds to a Type 4 pollution incident and on scene actions escalate to a Phase III activity (containment, countermeasures, cleanup, and disposal), the FOSC may:
 - 1) Allow State representatives to monitor the cleanup and removal activities being conducted by the responsible party (RP) with no involvement by Coast Guard resources;
 - 2) If there is no RP identified for the incident, the FOSC may open the Oil Spill Liability Trust Fund (OSLTF) to mitigate the spill. The FOSC may allow the State representative to hire a cleanup contractor and supervise cleanup/removal activities in accordance with established State contracting and documentation/accounting procedures or in accordance with Coast Guard cost documentation and fund accounting procedures if specific State procedures have not been established. The use of State resources in this manner is to be implemented by issuing the State a Pollution Removal Funding Authorization (PRFA). The PRFA shall document the expected description of work and the authorization of the State to hire a contractor or supervise a cleanup conducted by a contractor hired by the FOSC under a specific OSLTF ceiling; or
 - 3) The FOSC may choose to respond with on scene assets and mitigate the event using normal Coast Guard response practices.
 - c. Coordination and agreement between parties is essential; however, nothing should preclude any agency or individual from initiating immediate measures to minimize environmental damage, resulting from a pollution discharge. It is important to document the coordination between the FOSC and the State. Proper documentation in this regard will facilitate and support funding issues and federal response actions taken to address and mitigate the oil pollution discharge.
3. This policy addresses pollution response actions only. Each Captain of the Port (COTP)/Officer in Charge of Marine Inspection (OCMI) is reminded that enforcement, compliance, and prevention activities are conducted separately from pollution response efforts. This policy does not prevent a COTP/OCMI from allowing the State to respond and mitigate the pollution event, while concurrently sending Coast Guard resources to address enforcement, compliance, and prevention issues with involved vessels and facilities under the Coast Guard's jurisdiction. It should be noted that federal civil penalty action for the oil pollution discharge can be successfully supported by using official State reports or statements as evidence to prove an infraction without a Coast Guard presence on scene.

R. C. WIGGER
By direction

Dist: All CGD SEVEN MSOs